

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor Application of: Cechan Tian et al.
Serial No.: 10/725,817
Filed: December 1, 2003
Group No.: 3663
Examiner: Mark Hellner
For: CONTROL SYSTEM AND METHOD FOR AN OPTICAL
AMPLIFIER

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION (37 C.F.R. §1.321 (c)) AND
CERTIFICATE UNDER 37 C.F.R. §3.73 (b)**

I, Yozaburo Tijama, Executive Vice President, Chief Administrative Officer and Secretary of Fujitsu Network Communications, Inc., represent that Fujitsu Network Communications, Inc. is the assignee and the exclusive owner of the entire right, title and interest of, in and to application Serial No. 10/725,817, filed on December 1, 2003, for CONTROL SYSTEM AND METHOD FOR AN OPTICAL AMPLIFIER, as indicated by the assignment from Cechan Tian, Susumu Kinoshita and Joseph R. Rodriguez filed March 29, 2004, a copy of which is attached, and certify that to the best of assignee's knowledge and belief, title is in the assignee seeking to take action; and that I am empowered to act on behalf of assignee.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. Furthermore, I declare that these statements are made with the knowledge that willful false statements and the like

so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the Application or any patent issuing thereon.

Fujitsu Network Communications, Inc. hereby disclaims the terminal part of any patent granted on the above-identified application, that would extend beyond the expiration date of U.S. Patent No. 6,690,508 granted February 10, 2004, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,690,508, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successor or assigns.


Petitioner, however, does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration of the full statutory term of the above-referenced U.S. Patent No. 6,690,508, in the event that one or more of the following occurs: U.S. Patent No. 6,690,508 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The \$110.00 fee required by 37 C.F.R. 1.20(d) is submitted herewith and believed to be correct. However, the Commissioner is hereby authorized to charge any underpayment or credit any overpayment of fees to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

June 14, 2004

Date



Yozaburo Tijama, Executive
Vice President, Chief Administrative Officer
and Secretary

ASSIGNMENT

WHEREAS, I, the undersigned inventor (or one of the undersigned joint inventors), of residence as listed, having invented certain new and useful improvements as below entitled, for which application for United States Letters Patent is made, said application having been executed on the date set forth below; and

WHEREAS, Fujitsu Network Communications, Inc. (hereinafter referred to as "Assignee"), a California Corporation, with an address of 2801 Telecom Parkway, Richardson, Texas 75082, desires to acquire my entire right, title and interest in and to the invention, and in and to the said application and any Letters Patent that may issue thereon;

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, we assign to Assignee, all right, title and interest in and to said invention and in and to said application and all patents which may be granted therefor, and all divisions, reissues, continuations, continuations-in-part and extensions thereof; and we hereby authorize and request the Commissioner of Patents and Trademarks to issue all patents for said invention, or patents resulting therefrom, insofar as our interest is concerned, to Assignee.

We also assign to Assignee, all right, title and interest to the invention disclosed in said application throughout the world, including the right to file applications and obtain patents, utility models, industrial models and designs for said invention in its own name throughout the world including all rights to publish cautionary notices reserving ownership of said invention and all rights to register said invention in appropriate registries; and we further agree to execute any and all powers of attorney, applications, assignments, declarations, affidavits, and any other papers in connection therewith necessary to perfect such right, title and interest in Assignee.

We will communicate to Assignee any facts known to us respecting any improvements; and, at the expense of Assignee, we will testify in any legal proceedings, sign all lawful papers, execute all divisional, continuation, continuation-in-part, reissue and substitute applications, make lawful oaths and declarations, and generally do everything possible to vest title in Assignee and to aid Assignee to obtain and enforce proper protection for said invention in all countries.

This Assignment shall be binding on the parties' successors, assigns and legal representatives.

Title of Invention: CONTROL SYSTEM AND METHOD FOR AN OPTICAL AMPLIFIER

Signature of Inventor:

Tian Cech

Inventor's Name:

Cechan (nmi) Tian

Residence (City, County, State)

Plano, Collin County, Texas

Date Assignment executed:

March 25, 2002

Date Application executed:

March 25, 2002

Signature of Inventor:

Susumu Kinoshita

Inventor's Name:

Susumu (nmi) Kinoshita

Residence (City, County, State)

Plano, Collin County, Texas

Date Assignment executed:

March 25, 2002

Date Application executed:

March 25, 2002

Signature of Inventor:

Joseph R. Rodriguez

Inventor's Name:

Joseph R. Rodriguez

Residence (City, County, State)

Arlington, Tarrant County, Texas

Date Assignment executed:

March 25, 2002

Date Application executed:

March 25, 2002